

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8900 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

MAKBUL YUSUF SAFEDA THRO' MOTHER BIBI KHATUN YUSUF

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner
MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 22/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective
parties.

2. The petitioner challenges the order of preventive
detention dated 2nd September, 1998 made by the
Commissioner of Police, Surat City, under the powers
conferred upon him under Sub-section 1 of Section 3 of

the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. Alongwith the order of detention, the petitioner has been served with the grounds of detention. It is alleged that two offences punishable under Chapter XVI of the Indian Penal Code have been registered against the petitioner and similar incidents have been narrated by the witnesses, whose names and other particulars are withheld by the detaining authority. Hence, the petitioner is held to be a 'dangerous person' within the meaning of Section 2 (c) of the Act and his activities are held to be prejudicial to the maintenance of public order.

4. Only ground on which the impugned order is challenged is that the allegations made against the petitioner, even if were believed, the activities of the petitioner can at the most be said to be prejudicial to the maintenance of law and order and the petitioner cannot be said to have acted in a manner prejudicial to the maintenance of public order. The provisions contained in the Act could not have been attracted against the petitioner. The order of detention, therefore, could not have been made. The contention hardly requires acceptance. I have perused the complaints lodged in each of the aforesaid offences. In both the cases, the petitioner is alleged to have beaten the complainants in public place. In the second of the offences, the complainant has been ruthlessly beaten on the public road, in a thickly populated area. The complainant had suffered several injuries and a fracture also. The petitioner is alleged to have beaten the complainant with a piece of log of wood and his accomplices are alleged to have beaten the complainant with a sword. The whole incident was instigated by the petitioner. Besides, even the witnesses, whose identity has been withheld, have narrated the similar offences of beating and causing injury to the witnesses in a public place, which attracted the crowd of people. The petitioner's associates are also alleged to have pursued the crowd by brandishing lethal weapons. The statements made by both the witnesses are duly verified and both the witnesses have given statements only after assurance of anonymity. Inspite of offer of police protection, the witnesses have not agreed for disclosure of their names and other particulars. On the basis of the aforesaid evidence, the satisfaction recorded by the detaining authority is wholly justified.

For the reasons recorded hereinabove, the

petition is dismissed. Rule is discharged.

Prakash*